

TRUSTS & ESTATES
(LAW 6930)
(4 credit hours)

Professor McCouch

Spring 2021

Office Hours, Telephone and E-mail

My office is located in Holland Hall 312B. Regular office hours are on Wednesday at 2:30–3:30 p.m., or by appointment. Due to restrictions on in-person contact during the current pandemic, all office hours will be held via Zoom. You can also reach me by telephone at 352.273.0991 or by e-mail at gmccouch@law.ufl.edu.

Course Materials

The assigned casebook for the course is Ascher & McCouch, *Gratuitous Transfers* (7th ed.) (West 2019). Students should also have a copy of the Florida Statutory Supplement and handout problems, which will be posted on the course website (TWEN). For additional background reading (optional, not required), students may wish to consult McGovern, Kurtz & English, *Principles of Wills, Trusts and Estates* (concise hornbook) (2d ed.) (West 2011).

Course Objectives

The primary objective of the course is to introduce students to fundamental concepts and doctrines of inheritance law, including intestate succession, wills, and trusts. The course provides an essential grounding for students who wish to pursue advanced courses in fiduciary administration, future interests, and estate planning, as well as a general survey for students who intend to practice in other areas.

Class Meetings and Attendance

Class will meet at 9:00–10:15 a.m. on Wednesday, Thursday, and Friday, beginning Wednesday, January 20. In-person class sessions will be held in MLAC Room 213; remote sessions will be accessible via Zoom. Students attending in person must wear face coverings at all times during class and must comply with all applicable law school policies and requirements. Students are not permitted to make, post, or circulate audio or video recordings of class sessions. Some class meetings may be held remotely on relatively short notice due to health and safety concerns during the current pandemic. Therefore, all students should arrange to have a reliable internet connection and access to Zoom. Regular and punctual class attendance is required. A student with more than four unexcused class absences may be penalized in the final grade or excluded from the course. Students should be prepared to discuss the assigned readings in class, and may expect to spend up to two hours of preparation for every class hour.

Topical Outline

Topics will be covered in the following order, with assigned reading in the casebook, supplemental material (posted on TWEN) and Florida Statutes as indicated. The assigned reading for the first week of class is Chapter 1 of the casebook (pp. 1–54).

<u>Week</u>	<u>Topic</u>	<u>Casebook</u>	<u>Fla. Stat. §§</u>
	Ch. 1: Introduction		
Jan. 20	Inheritance, Testation, and Probate	1–54	
	Ch. 2: Intestate Succession		
Jan. 27	Spouse, Issue, Ancestors and Collaterals Adopted and Nonmarital Children	55–83 83–117	732.101–.105, 732.107, 732.601 732.106, 732.108, 742.17
Feb. 3	Advancements; Homicide; Disclaimer	117–146	733.806, 732.802, 739.102–.402
	Ch. 3: Family Protection		
	Homestead and Statutory Allowances	147–198	732.401–.403, 732.702
	Elective Share		732.201–.2145
Feb. 10	Omitted Heirs	198–215	732.301–.302
	Ch. 4: Grounds for Contest		
	Capacity, Undue Influence, Fraud and Mistake	223–302	732.501, 732.5165–.517, 732.805, 732.806, 733.107
	Ch. 5: Wills		
Feb. 17	Execution Formalities	303–381	732.502–.504, 732.521–.526
	Extrinsic Writings and Events	381–396	732.5105–.512, 732.515
	Will Contracts	396–408	732.513, 732.701
Feb. 24	Revocation and Amendment; Revival	408–421 421–424	732.505–.506, 733.207 732.507–.509
	Dependent Relative Revocation	424–429	
Mar. 3	Revocation by Divorce	429–444	732.703, 736.1105
	Ambiguity; Mistake; Ademption	444–472	732.606, 732.615, 732.609, 733.803–.805
Mar. 10	Lapse	472–484	732.603–.604
	Ch. 6: Gifts		
	Lifetime Gifts; Nonprobate Transfers	485–528	
	Revocable Trusts	528–543	689.075
	Ch. 7: Trusts		
Mar. 17	Trust Creation	545–563, 581–586	736.0401–.0404, 736.0407, 736.0603
	Spendthrift Trusts	586–598	736.0501–.0505
	Discretionary and Self-Settled Trusts	610–615, 626–630	
Mar. 24	Revocation, Modification and Termination	631–639 649–650	736.0602, 736.04113–.0412
	Trusts for Noncharitable Purposes	Supp.	736.0408–.0409
	Charitable Trusts; Cy Pres	Supp.	736.0405, 736.0413
Mar. 31	Ch. 8: Fiduciary Administration		
	Duty of Loyalty	Supp.	736.0801–.0802
	Trust Investments	Supp.	736.0803–.0804, 518.11–.112
	Duty of Impartiality; Fiduciary Discretion		
Apr. 7	Ch. 9: Future Interests		
	Classification of Future Interests		
	Survival Requirements; Class Gifts	Supp.	736.1106
	Powers of Appointment		
Apr. 14	Rule Against Perpetuities; Review	Supp.	689.225

Evaluation

Students will be evaluated primarily based on the final examination, which will be graded anonymously. Grades will follow the law school grading policy, which is available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. In calculating the final grade for the course, the grade awarded on the final examination may be raised by one grade level to reflect active, voluntary participation of consistently high quality in class discussion.

Students are encouraged to provide feedback on this course by completing an online evaluation shortly before the end of the semester. Students will be notified in advance of the online evaluation period. Summary results of the evaluation are available at <https://gatorevals.aa.ufl.edu/public-results/>.

Makeup Exams

The law school policy on delay in taking exams can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

Disability Accommodation

Students with disabilities requesting accommodations should first register with the Disability Resource Center (www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the Law School Office of Student Affairs when requesting accommodations. Students with disabilities should follow this procedure as early as possible in the semester.

Honor Code

Students are subject to the UF Student Honor Code, which can be found at <https://sccr.dso.ufl.edu/process/student-conduct-code/>.

Learning Outcomes

Upon completion of the course, students should have a basic understanding of the laws of intestacy, wills, and trusts, enabling them to analyze practical applications and planning alternatives and preparing them to pursue advanced courses in personal and estate planning.

Covid Policies

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

- You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and

requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.

- This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
- Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
- Be mindful of how to properly enter and exit the classroom. Practice physical distancing to the extent possible when entering and exiting the classroom.
- If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus. <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.
- Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work. <https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>.